

AN ORDINANCE

BY COUNCILMEMBER CATHY WOOLARD

01-0-1448

AN ORDINANCE TO ENACT A NEW DIVISION 10 OF ARTICLE XVI OF CHAPTER 2 OF THE CITY OF ATLANTA CODE OF ORDINANCES ENTITLED "FAIR LENDING AND HOME IMPROVEMENT PRACTICES COMMISSION"; TO PROVIDE FOR THE DUTIES AND POWERS OF THE COMMISSION; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, numerous citizens have complained that they have been the victims of unfair and fraudulent mortgage loans; and

WHEREAS, such practices contribute to home foreclosures in the City of Atlanta, particularly among low to moderate income and elderly Atlantans; and

WHEREAS, a significant number of loans complained of originated as loans to finance home improvement projects; and

WHEREAS, the City of Atlanta will be better able to exercise the police powers and to protect the citizens of Atlanta by creating a commission which will be empowered to investigate abusive lending practices or fraudulent loans and improper home improvement contractor practices, to design and facilitate better educational programs among those citizens most vulnerable to abusive lending and home improvement contracting services, and to study the causes of foreclosures in the City of Atlanta, with a goal of reducing foreclosures through education of its citizens.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS,

SECTION 1: A new Division 10 of Article XVI of Chapter 2 of the City of Atlanta Code of Ordinances entitled "Mortgage Lending and Home Improvement Practices Commission" be created to read as follows:

Division 10. Mortgage Lending and Home Improvement Practices Commission

Section 2-2201 Purpose and Declaration of Public Policy

(a) Purpose.

The Council finds that encouraging and maintaining strong levels of home ownership is in the best interest of the City, in that it promotes stability in neighborhoods and contributes to the general welfare of the citizenry. The Council further finds that a high level

of foreclosures is antithetical to the general welfare of the community. The Council finds that the level of foreclosures in the City result from a complex host of causes, which may include unfair lending practices. The Council further finds that the provision of a variety of legitimate credit products is important to serve the needs of the citizens of Atlanta. The Council finds that the citizens of Atlanta would be well served by better education designed to help citizens understand the fundamentals of mortgage lending and to know what loans are advisable and not advisable for their respective situations. The Council further finds that door to door solicitation by home improvement contractors, particularly in low income communities, exacerbate and compound the problem of foreclosures and that specific measures should be undertaken to ensure responsible action by home improvement contractors. The Council further finds that it will be better guided in making future public policy determinations by having more expert information on the causes of foreclosures in the City.

(b) Declaration of Public Policy.

It is hereby declared as a matter of public policy to promote, encourage and maintain the highest possible levels of home ownership in the City of Atlanta, and concomitantly to minimize the level of mortgage foreclosures. It is further declared as a matter of public policy that persons engaging in unfair or fraudulent mortgage lending practices must be identified, investigated and referred to the appropriate governmental authorities for civil or criminal proceedings. It is further declared as a matter of public policy that the provision of fair and responsible credit products to the citizens of Atlanta is consistent with the general welfare. It is further declared as a matter of public policy that the citizens of Atlanta should have access to greater levels of education about mortgage lending and the responsible use of credit. It is further declared as a matter of public policy that door to door solicitation by home improvement contractors, particularly in low-income communities, pose special problems in generating mortgage loans which may not be advisable. It is further declared that additional, ongoing information about the level of foreclosures in the City and the causes of those foreclosures is needed to guide the Council in the exercise of its police power.

(a) Creation.

There is created and established a commission to be known as the Mortgage Fair Lending and Home Improvement Practices Commission.

(b) Membership.

The commission shall consist of seventeen (17) members who are residents of the City of Atlanta to be appointed as follows:

- (1) One member each shall be appointed by each of the twelve (12) district councilmembers, respectively; and
- (2) Five (5) members shall be appointed by the Mayor, provided however that one of these five (5) members shall have substantial experience or expertise in the realm of financial lending institutions, one of these five (5) members shall have substantial experience or expertise in the realm of home improvement contracting and one of these five (5) members shall have substantial experience in the realm of consumer advocacy or consumer representation.

(c) Terms of Office.

- (1) The members of the commission appointed by the councilmembers serving in District 1 through 6 shall initially be appointed to serve a term of one (1) year.
- (2) The members of the commission appointed by the councilmembers serving in District 7 through 12 shall initially be appointed to serve a term of two (2) years.
- (3) The members of the commission appointed by the Mayor shall be appointed for a term of three (3) years.
- (4) All appointments subsequent to the initial term shall be for a term of three (3) years.

(d) Officers.

The commission shall elect at each annual meeting which shall be held during the month of January each year, a chairperson, vice chairperson, secretary, and such officers who shall have such

authority and perform such duties as are commonly associated with their respective titles.

(e) Compensation.

All members of the commission shall be non-salaried.

- (f) A member of the commission may contract to provide services to the city in the ordinary course of the business or profession of such member. No member shall participate as a member in the review and recommendations of the commission on any proposed work or work done by any such member or any corporation, partnership or other legal entity in which such member has any financial or employment interest.

Section 2-2003 Powers and Duties

The commission shall have the following powers and duties:

- (a) Upon the written complaint of a borrower or a home improvement customer, to investigate the circumstances surrounding any mortgage loan or home improvement contract made in the City of Atlanta.
- (b) To make referrals of any case involving a mortgage loan or home improvement contract made contrary to law or induced by unfair, fraudulent or misleading means to appropriate governmental agencies for further action. Such agencies include, but are not necessarily limited to the State of Georgia Governor's Office of Consumer Affairs, the State of Georgia Department of Banking Commission, the Fulton or DeKalb County District Attorney's Office, or the Fulton or DeKalb County Solicitors Office.
- (c) To design and approve a new education program or expand and promote existing education programs for the citizens of Atlanta on mortgage lending and the responsible use of credit.
- (d) To develop a data bank of all homes owned by individuals in the City of Atlanta with a fair market value of less than \$100,000 and to make an annual mailing to these owners providing educational information about mortgage lending and providing warnings about abusive or fraudulent lending practices and door to door home improvement solicitation.
- (e) To monitor and ensure that home improvement contractors soliciting directly or indirectly home improvement contracts on

homes with a fair market value of less than \$100,000 in the City of Atlanta comply with the additional disclosure requirements set forth in Section 2-2004 below.

- (f) To study, at its option, in consultation with the City's Bureau of Buildings, the construction standards applicable to home improvement contractors who undertake projects on homes with a fair market value of less than \$100,000 in the City of Atlanta and to recommend to the City Council the imposition of higher standards.
- (g) To undertake an annual study and to issue an annual report, no later than March 31st for the preceding calendar year, on the number of foreclosures in the City of Atlanta and the causes of such foreclosures.

Section 2-2004

Required Disclosure

For any home improvement contract which is solicited directly by or on behalf of a home improvement contractor, which will be subject to a loan secured by a home with a fair market value of less than \$100,000 in the City of Atlanta, the home improvement contractor must provide the following disclosure to the customer, which must be signed by the customer, before executing the home improvement contract or before performing any work thereunder.

"The City of Atlanta has established a Mortgage Lending and Home Improvement Practices Commission to provide information to the citizens of Atlanta regarding mortgage lending, home improvement contracting, and the responsible use of credit. There are educational programs conducted in the City on these issues of which the Commission is aware.

IF YOU ENTER INTO A LOAN TO FINANCE A HOME IMPROVEMENT CONTRACT ON YOUR HOUSE, THERE IS A POSSIBILITY THAT YOU COULD LOSE YOUR HOME THROUGH FORECLOSURE IF YOU ARE UNABLE TO MAKE THE PAYMENTS UNDER THE LOAN. YOU SHOULD EXERCISE CAUTION AND DILIGENCE IN MAKING ANY SUCH LOAN.

You may contact the Commission as follows for further information."

Section 2-2005 Rules of Procedures

The commission shall adopt rules of procedure, and such rules and any amendments thereto shall be filed with the Clerk of Council; and copies of such rules shall be made available to the general public upon request during normal business hours.

Section 2-2006 Records

The chairperson shall cause to be made and maintain a tape recording of each meeting of the commission and minutes of all its proceedings, including the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All records of the commission, including all evidence or other documentation submitted to the commission, shall be maintained by the chair at the office of the commission.

Section 2-2007 Funding

The commission shall submit budget requests annually in a manner prescribed by the chief financial officer, as established by ordinance or regulation of the City. The commission may make application for state, federal or private funds and grants and may use any funds so received in the performance of duties and functions prescribed by this article. The commission shall not be authorized to make application without prior official approval of the City Council for a gift, grant, bequest or devise of real property, money or personal property to be applied, principal or income, for either permanent or temporary use for commission purposes if the acceptance of any such gift, grant, bequest or devise will subject the City to additional expense of any nature or obligation of any kind.

Section 2-2208 Meetings and Conduct of Business

Meetings of the commission shall be held once per month on the date and time designated by the commission members. It shall be the responsibility of the chair to ensure that meeting agendas and material shall be received by all commission members at least one week before any regularly scheduled commission meeting. All meetings shall be open to the public.

SECTION 2: All ordinances or parts of ordinances in conflict are hereby repealed.

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- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred 9/4/01

Referred To: Finance / Executive

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

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Action:

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Other:

Members

Refer To

Refer To

FINAL COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd
- Readings
- ☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

MAYOR'S ACTION